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Human rights situations that require the Council's attention

Albania, Australia,* Belgium, Canada,* Croatia,* Cyprus,* Denmark,* France, Italy,* Netherlands, Norway,* Paraguay, Poland,* Portugal, Romania,* Slovakia,* Spain,* United Kingdom of Great Britain and Northern Ireland, United States of America:* draft resolution

31/... Situation of human rights in South Sudan

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Guided also by the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and relevant human rights treaties,

Emphasizing that States have the primary responsibility for the promotion and protection of human rights,

Recalling Human Rights Council resolution 29/13 of 2 July 2015, in which the Council requested the Office of the United Nations High Commissioner for Human Rights, inter alia, to undertake a comprehensive assessment of allegations of violations and abuses of human rights and to recommend appropriate follow-up action,

Recalling also Human Rights Council resolutions 5/1 of 18 June 2007, 18/17 of 29 September 2011, 21/28 of 28 September 2012, 23/24 of 14 June 2013 and 26/31 of 27 June 2014 on technical assistance and capacity-building for South Sudan in the field of human rights and the President's statement PRST 25/2 of 28 March 2014,

Recalling all relevant decisions and communiqués of the African Union and the Intergovernmental Authority on Development,

Recalling also Security Council resolutions 1809 (2008) of 16 April 2008, 2033 (2012) of 12 January 2012, 2206 (2015) of 3 March 2015, 2223 (2015) of 28 May 2015, 2241 (2015) of 9 October 2015 and 2252 (2015) of 15 December 2015 and the statements by its President S/PRST/2014/16 of 8 August 2014, S/PRST/2014/26 of 15 December 2014 and S/PRST/2015/9 of 24 March 2015,

* Non-member State of the Human Rights Council.

Deeply concerned by the allegations of human rights violations and abuses in the reports of the Secretary-General on South Sudan, the reports of the United Nations Mission in South Sudan dated 21 February 2014, 8 May 2014, 19 December 2014, 9 January 2015 and 4 December 2015, and the report of the United Nations High Commissioner for Human Rights,[1]

Deeply concerned also about the prevailing situation in South Sudan, which is marked by the atrocities committed since the outbreak of violence in December 2013, acute food insecurity, a deepening economic crisis and the dire humanitarian crisis, producing mass displacements within South Sudan and outside the country, access restrictions and other impediments to humanitarian assistance, while commending humanitarian agencies for their continued assistance to the affected populations, and urging all actors concerned to cooperate fully with humanitarian agencies,

Noting with grave concern the conclusions of the United Nations Mission in South Sudan in its reports dated 8 May 2014 and 4 December 2015 that the violations and abuses of human rights and the violations of international humanitarian law that have been committed may constitute war crimes and crimes against humanity,

Gravely concerned about the increase in sexual and gender-based violence and instances of conflict-related rape and gang rape, coupled with beating and abductions, as reported by the Secretary-General to the Security Council in February 2016,[2]

Expressing grave concern at the new trend of wholesale destruction of villages, indiscriminate targeting of civilians and health-care facilities, attacks on places of worship, the attack on the protection-of-civilians site of the United Nations Mission in South Sudan in Malakal, the continued obstruction and extortion of humanitarian assistance convoys and the wholesale looting and destruction of humanitarian compounds in the Greater Pibor Administrative Area, Unity and Upper Nile States and Juba,

Condemning in the strongest terms the violence which erupted in the protection-of-civilians site of the United Nations Mission in South Sudan in Malakal on 17 and 18 February 2016, and emphasizing the inviolability and sanctity of the United Nations compound,

Underlining that attacks against civilians and United Nations premises may constitute war crimes,

Expressing concern that civilians who sought safety in the protection-of-civilians site of the United Nations Mission in South Sudan have been attacked, killed, traumatized and displaced, and that serious damage was caused to the entire site, including to medical clinics and schools, which were burned down and destroyed,

Recalling that the protection of civilians in South Sudan is a responsibility of the Government of South Sudan,

Urging all parties to the conflict in South Sudan to protect civilians and allow safe and immediate humanitarian access,

Emphasizing that mediation can play an important role in the peaceful settlement of disputes, conflict resolution and prevention, including the prevention of human rights violations and abuses,

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[1] A/HRC/31/49 and A/HRC/31 CRP.5.

[2] S/2016/138.

Expressing particular concern at the reduction of democratic space in South Sudan, including through the heightened restrictions on freedom of expression, peaceful assembly and association, including attacks on journalists and media workers, and limitations on the operations of civil society and the media, and in this regard noting with concern that the recently signed bills on non-governmental organizations and the Relief and Rehabilitation Commission could disrupt international and national non-governmental organizations, including those that provide ongoing humanitarian assistance, and stressing the responsibilities of a transitional Government of national unity to address these issues in accordance with the Agreement on the Resolution of the Conflict in the Republic of South Sudan,

Welcoming the signing of the Agreement and the leading role that the Intergovernmental Authority on Development played to mediate the Agreement, and calling on all parties to fully implement the Agreement and abide by the ceasefire,

Welcoming also the report of the African Union commission of inquiry on South Sudan, and emphasizing its hope that this and other credible reports will be considered by any transitional justice mechanisms for South Sudan, including those provided for in the Agreement,

Recognizing that accountability and transitional justice can be important elements in a national reconciliation process and in implementing the Agreement, including by addressing issues of reparation, truth-seeking and non-recurrence,

Welcoming the African Union Peace and Security Council communiqué of 26 September 2015, which, inter alia, reaffirmed the commitment of the African Union to combating impunity, reiterated condemnation of the violence and abuses committed by armed actors in South Sudan, agreed to the establishment of an independent hybrid court and supported the establishment of a commission for truth, reconciliation and healing consistent with the Agreement and, in this regard, inviting the Chairperson of the African Union Commission to take all steps necessary to establish these bodies,

Underlining the role that domestic, regional and international accountability mechanisms can play in assisting South Sudan to ensure accountability,

Expressing concern that the situation in South Sudan continues to be characterized by impunity,

1. *Condemns* the ongoing human rights violations and abuses and violations of international humanitarian law in South Sudan, including those involving alleged targeted killings, ethnically targeted violence, rape and other forms of sexual and gender-based violence, the recruitment and use of children, arbitrary arrests and detention, alleged torture, arbitrary denial of humanitarian access and attacks on schools, places of worship, hospitals and United Nations and associated peacekeeping personnel, by all parties, also condemns the harassment and violence directed at civil society, humanitarian personnel and journalists, and emphasizes that those responsible for violations and abuses of human rights and violations of international humanitarian law must be held accountable;

2. *Demands* that all actors put a halt to all human rights violations and abuses and all violations of international humanitarian law, and strongly calls upon the Government of South Sudan, as well as the transitional Government of national unity, once formed, to ensure the protection and promotion of human rights and fundamental freedoms;

3. *Welcomes* the report of the Office of the United Nations High Commissioner for Human Rights assessment team dated 11 March 2016 and takes note of the recommendations contained therein;

4. *Also welcomes* the signing, under the auspices of the Intergovernmental Authority on Development, of the Agreement on the Resolution of the Conflict in the Republic of South Sudan;

5. *Further welcomes* the establishment of the Joint Monitoring and Evaluation Commission and the appointment of the former President of Botswana, Festus Mogae, as its Chair;

6. *Recognizes* the important role of the Joint Monitoring and Evaluation Commission in monitoring and overseeing implementation of the Agreement and its ceasefire provisions, and urges all parties and international partners to constructively engage with the Commission and other bodies created by the Agreement;

7. *Welcomes* the African Union Peace and Security Council communiqué of 26 September 2015, which, inter alia, reaffirmed the commitment of the African Union to combating impunity and reiterated its condemnation of the violence and abuses committed by armed actors in South Sudan;

8. *Calls upon* all local, regional and international partners to collaborate with and support the processes aimed at achieving the implementation of a sustainable peace;

9. *Urges* the speedy formation of an inclusive transitional Government of national unity to ensure full implementation of the Agreement, and stresses that perpetrators of violations of international humanitarian law, human rights violations and abuses, including any that amount to war crimes or crimes against humanity, should be held accountable;

10. *Recognizes* the important contribution of the Joint Monitoring and Evaluation Commission in working with the parties towards the establishment of a transitional Government of national unity and urges continued support from all relevant domestic and international stakeholders for their efforts;

11. *Calls upon* the Government of South Sudan, as well as the transitional Government of national unity, once formed, to investigate all human rights violations and abuses and violations of international humanitarian law, and to hold those responsible to account, while affording fair trial protections to the accused and supporting victims and protecting potential witnesses, before, during and after legal proceedings;

12. *Urges* the Government of South Sudan, as well as the transitional Government of national unity, once formed, to take steps immediately to protect the rights to freedom of expression, peaceful assembly and association in accordance with its international human rights obligations and to, among other things, ensure that members of civil society organizations and the media can operate freely and without intimidation;

13. *Strongly urges* all parties to end and prevent human rights violations and abuses committed against children, and calls upon all parties to end immediately the unlawful recruitment of children and to release all children that have been unlawfully recruited to date;

14. *Recognizes* the important role that women play in building peace, calls for the protection and promotion of the rights of women, their empowerment and participation in peacebuilding, conflict resolution and post-conflict processes, in accordance with Security Council resolution 1325 (2000) of 31 October 2000 and subsequent resolutions on women, peace and security, including Council resolution 2242 (2015) of 13 October 2015;

15. *Supports* the establishment of transitional justice institutions, including an independent hybrid court and a commission for truth, reconciliation and healing, consistent with the Agreement, and in this regard calls for the establishment of these bodies without delay and calls upon all parties to fully cooperate with them;

16. *Expresses serious concern* about the lack of progress made by the Government of South Sudan in improving the promotion and protection of human rights, especially in the areas outlined in paragraphs 14 and 15 of Human Rights Council resolution 29/13;

17. *Calls upon* the Government of South Sudan to cooperate fully and constructively with the Office of the United Nations High Commissioner for Human Rights and the United Nations Mission in South Sudan, as well as regional, subregional, and international mechanisms on the ground;

18. *Establishes* a Special Rapporteur, for a period of 30 months, with the following mandate:

(*a*) To monitor and report on the situation of human rights in South Sudan and make recommendations for its improvement, including with a view to bringing perpetrators of violations and abuses to justice;

(*b*) To assess and verify past reports on the situation of human rights between December 2013 and June 2016 in order to establish a factual basis for transitional justice and reconciliation;

(*c*) To provide guidance on transitional justice, accountability and reconciliation issues, as appropriate, and, once the transitional Government of national unity is fully formed, operational and commits to ending the violence against the civilian population and to cooperating with the hybrid court for South Sudan, to make recommendations on technical assistance to the transitional Government of national unity to support transitional justice, accountability and reconciliation;

(*d*) To engage with other international and regional mechanisms, including the United Nations, the United Nations Mission in South Sudan, the African Union, the Joint Monitoring and Evaluation Commission Chair, the African Commission on Human and Peoples' Rights and civil society, with a view to providing support to national, regional and international efforts to promote accountability for human rights violations and abuses;

19. *Requests* that representatives of the Office of the United Nations High Commissioner for Human Rights, the African Union, the Joint Monitoring and Evaluation Commission and the United Nations Mission in South Sudan be invited to discuss the human rights situation in South Sudan and steps taken by the Government to ensure accountability for human rights violations and abuses in an enhanced interactive dialogue at the thirty-second session of the Human Rights Council;

20. *Requests* the Special Rapporteur to present a comprehensive written report, in an interactive dialogue, to the Human Rights Council at its thirty-fourth and thirty-seventh sessions;

21. *Requests* that the reports of the Special Rapporteur be shared with relevant international and regional bodies;

22. *Decides* to remain seized of the matter.